



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

December 12, 1991

Ms. Georgia Flint
Acting Commissioner
Texas Department of Insurance
P. O. Box 149104
Austin, Texas 78714-9104

OR91-641

Dear Ms. Flint:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, article 6252-17a, V.T.C.S. Your request was assigned ID# 14137.

You have received a request for information relating to investigations of a number of insurance companies. Specifically, the requestor seeks all records pertaining to Milton Phillips Overstreet, the American Association of Independent Consumers, and the Southwest Association of Independent Consumers. You claim the requested information is excepted from required public disclosure by sections 3(a)(1), 3(a)(3), 3(a)(7), and 3(a)(11) of the Open Records Act.

Previous open records decisions issued by this office resolve your request. Section 3(a)(3) excepts


information relating to litigation of a criminal or civil nature and settlement negotiations, to which the state or political subdivision is, or may be, a party, or to which an officer or employee of the state or political subdivision, as a consequence of his office or employment, is or may be a party, that the attorney general or the respective attorneys of the various political subdivisions has determined should be withheld from public inspection.

Open Records Decision No. 555 (1990) held that section 3(a)(3) applies only when litigation in a specific matter is pending or reasonably anticipated and only to information clearly relevant to the pending litigation. Section 3(a)(3) requires parties to a lawsuit to seek relevant information through the normal process of discovery. Open Records Decision No. 551 (1990).

You advise us that the requested information relates to anticipated litigation. Having examined the documents sent to us for review, we conclude that, unless previously disclosed through the discovery process or by court order, the requested information relates to the anticipated litigation and may be withheld from required public disclosure by section 3(a)(3). Please note that this ruling applies only for the duration of the litigation at issue here. Because we resolve your request under section 3(a)(3), we need not address the applicability of sections 3(a)(1), 3(a)(7), and 3(a)(11) at this time.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please refer to OR91-641.

Yours very truly,



Kay H. Guajardo
Assistant Attorney General
Opinion Committee

KG/GK/lcd

Ref.: ID#s 14137, 14293

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(w/o enclosures)